

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHEASTERN DIVISION**

NUCLEAR DEVELOPMENT, LLC,	§	
	§	
Plaintiff,	§	
	§	CIVIL ACTION CASE NUMBER:
vs.	§	
	§	5:18-cv-01983-LCB
TENNESSEE VALLEY AUTHORITY,	§	
	§	
Defendant.	§	

**PLAINTIFF’S EVIDENTIARY SUBMISSIONS IN OPPOSITION TO
DEFENDANT’S MOTION FOR SUMMARY JUDGMENT
(UNREDACTED)**

Plaintiff Nuclear Development, LLC (“ND”) submits the following evidence in support of ND’s Opposition to Defendant’s Motion for Summary Judgment. In accordance with the Court’s Order of January 23, 2019 (Doc. 19), the materials filed by TVA in conjunction with its motion are not being refiled by ND.

Guide to Citations

Items of evidentiary support for ND’s brief that were filed by TVA with its summary judgment motion are identified using TVA’s exhibit number (Exhibits 1-9), preceded by “TVA,” and also by the name of the deponent or the deposition exhibit number where it is necessary for further clarity.

Items of evidentiary support for ND’s brief that were not filed by TVA are identified by capital letter exhibits that correspond with the descriptions of such

exhibits in this document. To avoid confusion, ND is using the same exhibit designations (e.g., “A” or “X”) that it used for its Evidentiary Submissions in Support of ND’s Motion for Summary Judgment (Doc. 72), preceded by “ND.” There are gaps in the lettering because not all of the former exhibits will be referenced.

For depositions, the name of the deponent and his or her position is described in this document and not restated in the brief except with respect to the first mention of such deposition. The page and line numbers of the testimony are identified in the brief by stating the page numbers followed by the lines in parentheses separated by a hyphen. If there are multiple pages, the testimony begins with the first line number for the first page and ends with the second line number after the hyphen for the ending page. For example, “Ex. B at 50-51 (25-2)” means the testimony beginning at page 50, line 25 and ending on page 51, line 2.

Some of the evidence referred to in ND’s brief has been designated as “Confidential” under the Protective Order entered on July 1, 2019 (Doc. 47). Such evidence is identified in the list below as confidential, where applicable. Pursuant to ¶11 of the Protective Order, that evidence must be filed under seal.

Evidence Submitted and Identification of Witnesses

Exhibit B – Deposition of James Chardos (“Chardos”). Chardos is a TVA employee who has managed TVA’s Bellefonte plant as project manager or site manager from 1994 to the present. He is currently the site manager for the plant.

Exhibit D – Defendant’s (TVA’s) Responses and Objection to Plaintiff’s Amended Third Set of Requests for Admission.

Exhibit E – Deposition of Kevin Dutton (“Dutton”). Dutton is a TVA employee who is the TVA General Manager for Nuclear Power Group Projects in TVA’s Corporate Engineering Department.

Exhibit F – Deposition Exhibit 207, which is a June 29, 2006 letter from TVA to the Nuclear Regulatory Commission (“NRC”) that has been certified as an official business record of the NRC.

Exhibit G – Deposition Exhibit 208, which is an August 22, 2006 letter from the NRC to TVA that attaches a TVA Environmental Assessment, which has been certified as an official business record of the NRC.

Exhibit J – Deposition of William Johnson (“Johnson”). Johnson was the Chief Executive Officer of TVA from 2012 through May 1, 2019, and during the period of the events at issue and when the lawsuit was filed. (Confidential)

Exhibit M – Deposition of Sherry Quirk (“Quirk”). Quirk has been the Executive Vice President and General Counsel of TVA since February 2015. She is also the Secretary and Designated Agency Ethics Official of TVA. (Confidential)

Exhibit N – Deposition Exhibit 5, which is a TVA press release of November 14, 2016 regarding the sale of Bellefonte to ND identified in Johnson’s deposition at 25-26.

Exhibit O – Deposition Exhibit 6, which are ND’s economic projections for Bellefonte produced from TVA’s records as TVABLN00007588. (Confidential)

Exhibit Q – Deposition of Cliff Beach (“Beach”). Beach is a TVA employee who was an Associate General Counsel and Senior Counsel in TVA’s legal department through the end of 2018. (Confidential)

Exhibit R – Declaration of Larry Blust identifying TVA’s August 2016 Offering Memorandum for the sale of Bellefonte sent by TVA to ND as a prospective bidder.

Exhibit X – Deposition of Joseph Shea (“Shea”). Shea is a TVA employee who was TVA’s Vice President of Licensing from 2012 through August 2017 and Vice President of Regulatory Affairs and Support Services until September 2019, when he became TVA’s Vice President of Nuclear Technology Innovation. (Confidential)

Exhibit Z – Deposition Exhibit 12, which is an August 21, 2018 letter from TVA to ND produced from TVA’s records as TVABLN00000352.

Exhibit BB – Deposition of Chris Chandler (“Chandler”). Chandler is a TVA employee since 2009 and is TVA’s Associate General Counsel for Nuclear in the Office of the General Counsel. (Confidential)

Exhibit DD – Deposition Exhibit 17, which is a November 9, 2018 email with attachment from TVA to ND identified in Quirk’s deposition at 100. (Confidential)

Exhibit EE – July 30, 2018 email response from TVA’s Erin Henderson to TVA’s Steve Higginbottom produced from TVA’s records as TVABLN00000625-27. Henderson is TVA’s Director of Corporate Nuclear Licensing and was on the Bellefonte transition team. (Confidential)

Exhibit II – Deposition Exhibit 31, which is a November 29, 2018 email with attached letter from TVA to ND identified in Quirk’s deposition at 130. (Confidential)

Exhibit LL – Deposition Exhibit 184, which is a notice of closing costs due on the sale of Bellefonte identified in Chardos’ deposition at 115-16. (Confidential)

Exhibit PP – Deposition of Steve Burns (“Burns”), TVA’s expert witness. (Redacted)

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on October 14, 2020, a true and correct copy of the foregoing was served by email to all counsel of record:

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